



## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

**[Docket Number USCG-2020-0667]**

#### **Offshore Patrol Cutter Acquisition Program; Preparation of a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of intent to prepare a Programmatic Environmental Impact Statement (PEIS)/Overseas Environmental Impact Statement (POEIS); request for comments.

**SUMMARY:** The United States (U.S.) Coast Guard (Coast Guard), as the lead agency, announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS)/Overseas Environmental Impact Statement (POEIS) for the Offshore Patrol Cutter (OPC) Program's Stage 2 acquisition of up to 21 OPCs and operation of up to 25 total OPCs. This acquisition is a continuation of the OPC Program of Record for acquiring up to 25 total cutters. Notice is hereby given that the public scoping process has begun for the preparation of a PEIS/POEIS that will address the reasonable alternatives and potential environmental impacts associated with implementing the Proposed Action. The scoping process solicits public comments regarding the range of issues, information and analyses relevant to the Proposed Action, including potential environmental impacts and reasonable alternatives to address in the PEIS/POEIS. The Coast Guard has determined that a PEIS/POEIS is the most appropriate type of NEPA document for this action because of the scope and complexity of the proposed acquisition and operation of up to 25 OPCs.

#### **SUPPLEMENTARY INFORMATION:**

##### **Purpose and Need for the Proposed Action**

The Coast Guard's current fleet of Medium Endurance Cutters (MEC) consists of 28 operational vessels homeported in the Coast Guard's area of responsibility (AOR) in the Atlantic, Pacific,

and Gulf of Mexico. MECs primarily operate outside the 12 nm territorial seas and within the 200 nm Exclusive Economic Zone and primarily execute maritime law enforcement and search and rescue missions. Additional MEC operations occur in the Gulf of Mexico, the Caribbean Sea, and the Pacific between California and Panama. Current operational MECs have exceeded their designed 30-year service life and can no longer meet this need for the Coast Guard.

Therefore, the Coast Guard must replace the aging MECs because they are too old and costly to be operationally effective. Some of the oldest MECs are already more than 55 years old and do not have sufficient hull life remaining to justify any attempts to modernize them. Therefore, the purpose of the Proposed Action is the acquisition and operation of up to 25 OPCs to replace the capabilities of the current operational MECs. OPCs have identical missions and operational characteristics as the MECs they replace. OPC differences include increased length to accommodate a fixed hanger for assigned aircraft, larger flight deck, greater at-sea endurance, an increased number of cutter boats, and modernized Command, Control, Computers, Navigation, and Combat systems. OPCs also feature enhanced environmental standards for clean air, noise, sewage, trash, and ballast.

### **Preliminary Proposed Action and Alternatives**

Preliminary Proposed Action (Alternative 1): Under the preliminary Proposed Action, the Coast Guard would acquire and operate up to 25 OPCs with planned design lives of 30 years to fulfill mission requirements in the proposed action areas in the Atlantic Ocean, Gulf of Mexico, the Caribbean Sea, and Pacific Ocean, including Alaska, Hawaii, and Pacific Islands. Similar to the current fleet's operations, the Proposed Action would include vessel and aircraft operations as well as shipboard training exercises to meet the Coast Guard's mission responsibilities. OPCs would support the Coast Guard's missions that generally occur more than 50 nm (92 km) from shore and require long transit time to reach the farthest extent of the Coast Guard's AORs, forward deployment of forces with the U.S. Navy for National Defense, and an extended on-scene vessel presence.

An OPC's typical deployment schedule would be to perform law enforcement activities, which include interdicting any vessel suspected of illegal or unsafe activity in U.S. waters (e.g., fishing without appropriate permits, carrying excessive passengers, or transporting contraband). However, the OPC would be expected to perform other federally-mandated emergent (e.g., hurricane disaster response) or non-emergent missions, typically without sufficient time to return to port for additional provisions or reconfiguration. These missions include Ports, Waterways, and Coastal Security, Search and Rescue, Drug Interdiction, Migrant Interdiction, Living Marine Resource, Other Law Enforcement, and Defense Readiness. The OPC would also be required to enforce maritime environmental laws and regulations, escort vessels to protect national security, and to ensure safe maritime navigation. Coast Guard mandated missions are covered under Title 14 U.S.C. and 6 U.S.C. § 468.

OPCs would carry up to three small, ridged hull inflatable over the horizon (OTH) boats, but only one to two OTH boats would be launched in support of OPC operations. Operations with OTH boats would enhance operational effectiveness by allowing for simultaneous boarding, inspecting, seizing, and neutralizing of surface targets of interest (i.e., civilians suspected of breaking the law or requiring assistance). The OTH boats would also perform in situations and areas where it is either physically impossible or dangerous for the OPC to navigate. OTH boats would support activities such as vessel boardings, passenger transfers, and rescue of a person in distress.

All OPCs would be flight deck-equipped with the ability to launch, recover, hangar, and maintain manned (i.e., helicopters) aircraft. The flight deck of the OPC would be capable of launching and recovering helicopters including all variants up to equivalent weight of a Sikorsky S-92. In general, helicopters supporting an OPC would either be from an embarked aviation detachment, or would fly from an established airstrip on shore either to the OPC or from the OPC to shore. Helicopter flights associated with the Proposed Action would occur in all Coast Guard AORs, and could be used for transport of personnel and equipment and for conducting

training (e.g., landing qualifications), in addition to supporting all OPC missions. All aircraft would follow the Coast Guard's Air Operations Manual (COMDTINST M3710.1H, October 2018).

All OPCs would also be flight deck-equipped with the ability to launch, recover, hangar, and maintain an Unmanned Aircraft System (UAS). Depending on available space, multiple UAS may be utilized. The OPC would have the capability to operate video-equipped UAS that would extend the visual capability of the OPC when conducting operations. The UAS would be deployed and recovered from the OPC. At this time, the specific type of UAS that would be deployed from the OPC is not known because the Coast Guard would acquire the most current UAS technology after the OPCs are operational. Coast Guard UAS Division sets policies and Standard Operating Procedures specific to UAS operations, including regulations that differ from those governing manned flight operations

Every 18–24 months, the OPC crew would undergo 3–4 weeks of training and evaluation, including over 100 drills and exercises in different scenarios (e.g., flooding, combat, fires, refueling at sea, towing, active shooter) to demonstrate the crew's abilities to safely and effectively run the ship. During this training evaluation, a significant administrative portion is dedicated to ensure the ship's compliance with applicable laws, regulations, and policies. Some of the activities are integral to Coast Guard emergency response. Although emergency response is not a part of the Proposed Action, training is required. Therefore, training on an OPC for an emergency response is considered part of the Proposed Action. Training would entail practicing response to a simulated emergency while continuing the safe operation and navigation of the OPC.

Gunnery training may occur up to four times per year on each OPC vessel and would only occur in ranges authorized by the Coast Guard and when possible, in established Navy ranges, particularly when live ammunition is used. Areas with sensitive marine resources would not be used for gunnery training.

Vessel performance testing would occur up to annually and would typically occur near that vessel's homeport similar to testing currently conducted for MECs.

Coast Guard OPC operations and training would occur after delivery of each OPC from the shipbuilder to the Coast Guard. For example, OPC-1 delivery to the Coast Guard is expected in 2022 and would undergo approximately one year of training to become "Ready for Operations." OPC-1 would then become operational in 2023. The last OPC (i.e., OPC-25) is expected to be delivered in 2037 and would then become operational in 2038.

Under Alternative 2, Reduced Acquisition: The Coast Guard would explore the acquisition of fewer OPCs after the completion of OPC-1 through OPC-4 which are under contract. The Coast Guard would consider five, ten, or fifteen OPCs via a re-competition of the original OPC contract as replacements for a corresponding number of in-service MECs. The Coast Guard would then need to replace the remaining MECs on a one-for-one basis, using whatever replacement hulls the Coast Guard could obtain when deterioration or obsolescence requires decommissioning. The life cycle training and logistical costs of maintaining several unique hulls would exceed the corresponding costs of maintaining a class of 25 cutters that would be built specifically to conduct missions in the Coast Guard's AORs. Costs and challenges are similar to what is described under Alternative 3.

Under Alternative 3, Purchase, Lease, and Inherit: The Coast Guard would explore various forms of cutter purchase or lease, or inherit vessels from the U.S. Navy, as the need arises. This would mean that as a MEC reaches or surpasses the end of its economic service life, that cutter would not necessarily be replaced with the same type of asset or by an asset with similar capabilities. One-for-one MEC replacement would cost far more per replacement hull because it eliminates any workforce savings associated with a ship with capabilities designed specifically to conduct Coast Guard missions in areas that may exceed 50 nm (93 km) from shore.

Other drawbacks to the purchase, lease, and inherit alternative include the lack of an existing domestic commercial vessel capable of meeting available options to Purchase and Build-to-Lease.

One of the major challenges with this approach is that Coast Guard systems would not be properly integrated, limiting ability of assets to communicate in real time and resulting in decreased efficiency throughout the system, as well as higher maintenance costs.

No Action Alternative: The evaluation of a No Action Alternative is required by the regulations implementing NEPA. Under the No Action Alternative, the Coast Guard would acquire OPC-1 through OPC-4, then would fulfill its missions in the Atlantic and Pacific Oceans and Gulf of Mexico using existing assets, which are reaching the end of their service lives. The existing assets would continue to age, causing a decrease in efficiency of machinery as well as an increased risk of equipment failure or damage, and would not be considered reliable for immediate emergency response. In addition, it would become more difficult for an ageing fleet to remain in compliance with environmental laws and regulations and standards for safe operation. Further Service Life Extensions become more challenging as significant systems and parts are no longer available, which requires contracting for systems or parts to be made specifically for the vessel.

The No Action Alternative would also not meet the Coast Guard's statutory mission requirements in the Atlantic and Pacific Oceans and Gulf of Mexico by providing air, surface, and shore-side presence in those areas. The Coast Guard also enforces the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA), and without reliable Coast Guard presence, enforcement of these laws would be significantly reduced. As such, the No Action Alternative does not meet the purpose and need.

### **Summary of Expected Impacts**

While the Coast Guard must work toward environmental compliance during the design and acquisition of OPCs, each vessel is not expected to impact the environment or biological

resources until it is operational. In addition, vessel construction in commercial shipyards is not expected to impact any physical or biological resources.

Although the total number of OPCs may be subject to change, Congressional Authorization is for no more than 25. Therefore, the PEIS/POEIS analyzes the potential impact associated with the proposed acquisition and operation of up to 25 OPCs, as this would be the highest number projected to be operational in the Coast Guard's AORs. Acoustic and physical stressors associated with the Proposed Action may potentially impact the physical and biological environment in the AORs. Potential acoustic stressors include: underwater transmissions (depth-sounder/navigation system), vessel noise, aircraft noise, and gunnery noise. OPCs would not feature SONAR, but would employ navigational systems. Potential physical stressors include: vessel movement, aircraft movement (helicopters, UAS), and marine expended materials (MEM).

Since the OPC AORs cover a broad geographic area, stressors associated with the Proposed Action may potentially impact air quality, ambient sound, biological resources (including critical habitat), and socioeconomic resources. The PEIS/POEIS evaluates the likelihood that a resource would be exposed to or encounter a stressor and identifies the potential impact associated with that exposure or encounter. The likelihood of an exposure or encounter is based on the stressor, location, and timing relative to the spatial and temporal distribution each biological resource or critical habitat.

Under the Proposed Action, underwater acoustic transmissions, vessel noise, aircraft noise, gunnery noise, vessel movement, aircraft movement, and MEM associated with the Proposed Action is not expected to result in significant impacts to the following resources: air quality, ambient sound, marine vegetation, marine invertebrates, flying insects, birds, bats, marine fish, Essential Fish Habitat, marine reptiles, marine mammals, commercial fishing, marine construction, mineral extraction, oil and gas extraction, recreation and tourism, renewable energy, research, transportation and shipping, and subsistence fishing and hunting. The Proposed

Action may affect, but is not likely to adversely affect any ESA-listed marine invertebrates, flying insects, birds, bats, fish, marine reptiles, and marine mammals.

There would be no effect to the critical habitat of black abalone, staghorn coral, and elkhorn coral. The Proposed Action is not expected to result in the destruction or adverse modification of federally-designated critical habitat for the piping plover, spectacled eider, Steller's eider, western snowy plover, bocaccio, eulachon, green sturgeon, Gulf sturgeon, smalltooth sawfish, yelloweye rockfish, green sea turtle, hawksbill sea turtle, leatherback sea turtle, loggerhead sea turtle, humpback whale, North Atlantic right whale, North Pacific right whale, false killer whale, Southern resident killer whale, Steller sea lion, Hawaiian monk seal, ringed seal, West Indian manatee, sea otter, and polar bear. Pursuant to the Migratory Bird Treaty Act (MBTA; 16 U.S.C §§ 703-712 *et seq.*), the Proposed Action would not result in a significant adverse effect on migratory bird populations. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. Sections 1801–1882), underwater acoustic transmissions, vessel noise, vessel movement, and MEM associated with the Proposed Action would not adversely affect the quality or quantity of EFH within the Coast Guard's AORs.

#### **Anticipated Permits and Authorizations**

The Coastal Zone Management Act (CZMA; 16 U.S.C §§ 1451 *et seq.*) was enacted to protect the coastal environment from demands associated with residential, recreational, and commercial uses. The Coast Guard would determine the impact of the Proposed Action and provide a Coastal Consistency Determination or Negative Determination to the appropriate state agency for anticipated concurrence once the homeports are selected for the OPCs.

The Endangered Species Act (ESA) of 1973 (16 U.S.C §§ 1531 *et seq.*) provides for the conservation of endangered and threatened species and the ecosystems on which they depend. The Coast Guard anticipates consulting under Section 7 of the ESA with the services, the



National Marine Fisheries Service and the U.S. Fish and Wildlife Service that have jurisdiction over the species (50 CFR part 402.14(a)).

The Marine Mammal Protection Act (MMPA; 16 U.S.C §§ 1361 *et seq.*) established, with limited exceptions, a moratorium on the “taking” of marine mammals in waters or on lands under U.S. jurisdiction, and on the High Seas by vessels or persons under U.S. jurisdiction. The MMPA further regulates “takes” of marine mammals in U.S. waters and by U.S. citizens on the High Seas. The term “take,” as defined in Section 3 (16 U.S.C. § 1362) of the MMPA, means “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal”. "Harassment" was further defined in the 1994 amendments to the MMPA as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (i.e., Level A Harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (i.e., Level B Harassment). The Coast Guard anticipates requesting a Letter of Authorization to “take” marine mammals, defined as Level B harassment.

### **Schedule for the Decision-Making Process**

The first OPC is expected to be operational by 2023 with a projected construction completion date of all 25 OPCs by 2037. Because the first OPC would not be operational until at least 2023 and the last not until at least 2038, new information may become available after the completion of the PEIS/POEIS. In that case, supplemental NEPA/EO 12114 documentation may be prepared in support of new information or changes in the Proposed Action considered under the PEIS/POEIS. Some examples of new information that may be included in supplemental NEPA/EO 12114 documentation are substantial changes in the Proposed Action relevant to environmental concerns, significant new environmental changes or information bearing on the Proposed Action, or information that arises to further the purposes of NEPA/EO 12114. The

PEIS/OEIS is expected to be completed within 24 months of the date from which this notice is published in the Federal Register.

### **Public Scoping Process**

The notice of intent initiates the scoping process, which guides the development of a PEIS/POEIS. The Coast Guard is seeking comments on the potential environmental impacts that may result from the acquisition, testing (post-dockside), and operation of up to 25 OPCs, and any associated onboard training to help in the development of a PEIS/POEIS. The Coast Guard is also seeking input on relevant information, studies, or analyses of any kind concerning impacts potentially affecting the quality of the human environment as a result of the Proposed Action. NEPA requires federal agencies to consider environmental impacts that may result from a Proposed Action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. EO 12114, Environmental Effects Abroad of Major Federal Actions (44 Federal Register [FR] 1957), directs federal agencies to be informed of and take account of environmental considerations when making decisions regarding major federal actions outside of the U.S., its territories, and possessions. EO 12114 requires federal agencies to assess the effects of their actions outside the U.S. that may significantly harm the physical and natural environment. A PEIS/POEIS would include, among other topics, discussions of the purpose and need for the Proposed Action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impact of the Proposed Action and alternatives. The Coast Guard proposes to combine the PEIS and POEIS into one document, as permitted under NEPA and EO 12114, to reduce duplication.

The Coast Guard will evaluate a range of reasonable alternatives, and will analyze the No Action Alternative as a baseline for comparing the impacts of the Proposed Action. For the purposes of this Proposed Action, the No Action Alternative is defined as not approving the acquisition of OPC Stage 2 cutters (OPC cutters 5-25) and only replacing up to four of the current operational MECs using the four OPCs already under contract. Alternatives could

include a reduction in the number of acquired vessels, upgrading the existing MEC fleet to further extend their useful life, and exploring various forms of cutter purchase or lease, or inheriting vessels from the U.S. Navy. The scoping period will begin upon publication of this notice in the FEDERAL REGISTER and continue for a period of forty-five (45) days.

The Coast Guard intends to follow the Council on Environmental Quality (CEQ) regulations implementing the NEPA (40 Code of Federal Regulations 1500 *et. seq.*) by scoping through public comments. Scoping, which is integral to the process for implementing NEPA, provides a process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft PEIS/POEIS is thorough and balanced; and (4) delays caused by an inadequate PEIS/POEIS are avoided.

Public scoping is a process for determining the scope of issues to be addressed in this PEIS/POEIS and for identifying the issues related to the Proposed Action that may have a significant effect on the environment. The scoping process begins with publication of this notice and ends after the Coast Guard has:

- Invited the participation of Federal, State, and local agencies, any affected Indian tribe, and other interested persons;
- Consulted with affected Federally Recognized Tribes on a government-to-government basis, and with affected Alaska Native corporations, in accordance with EO 13175 and other policies. Native American concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given appropriate consideration;
- Determined the scope and the issues to be analyzed in depth in the PEIS/POEIS;
- Indicated any related environmental assessments or environmental impact statements that are not part of the PEIS/POEIS;

- Identified other relevant environmental review and consultation requirements, such as Coastal Zone Management Act consistency determinations, and threatened and endangered species and habitat impacts; and
- Indicated the relationship between timing of the environmental review and other aspects of the application process.

With this Notice of Intent, we are asking federal, state, Tribal, and local agencies with jurisdiction or special expertise with respect to environmental issues in the project area to formally cooperate with us in the preparation of the PEIS/POEIS.

Once the scoping process is complete, Coast Guard will prepare a draft PEIS/POEIS, and will publish a Federal Register notice announcing its public availability. We will provide the public with an opportunity to review and comment on the draft PEIS/POEIS. After Coast Guard considers those comments, we will prepare the final PEIS/POEIS and similarly announce its availability and solicit public review and comment. Comments received during the draft PEIS/POEIS review period will be available in the public docket and made available in the final PEIS/POEIS.

Pursuant to the CEQ regulations, Coast Guard invites public participation in the NEPA process. This notice requests public participation in the scoping process, establishes a public comment period, and provides information on how to participate.

The 45-day public scoping period begins November 18, 2020 and ends January 04, 2021. Comments and related material must be received by the Coast Guard and submitted to the online docket via <https://www.regulations.gov/>, or otherwise reach the OPC Program Manager on or before January 04, 2021.

We encourage you to submit specific, timely comments through the Federal portal at <http://www.regulations.gov>, on the site provided when searching on the above docket number or searching for Offshore Patrol Cutter. If your material cannot be submitted using

<http://www.regulations.gov>, contact the OPC program manager at HQS-SMB-OPC-

EIS@uscg.mil. If you cannot submit comments electronically, written comments can be sent to:

OPC Program Manager (CG-9322)  
U.S. Coast Guard Headquarters  
2703 Martin Luther King Jr. Ave SE, Stop 7800  
Washington, DC 20593

In your submission, please include the docket number for this notice of intent and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>. Documents mentioned in this notice of intent as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions.

### **Public Meeting**

Coast Guard does not plan to hold public meetings during the scoping period, however if sufficient requests for public comment are received, Coast Guard will consider holding public meetings and will announce the dates, times, and locations in a separate document published in the Federal Register. To receive an email notice whenever a comment or notice, including the notice announcing when any meetings are to be held, is submitted or issued, go to the online docket and select the sign-up-for-email-alerts option. When it is published, we will place a copy of the announcement in the docket, and you will receive an email alert from [www.regulations.gov](http://www.regulations.gov). Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this Proposed Action. Comments submitted anonymously will be accepted and considered, however.

Authority: This PEIS/POEIS is being prepared in compliance with the National Environmental Policy Act (NEPA; 40 CFR 1502.14(d)) and Executive Order (EO) 12114.

Dated: November 13, 2020.

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OPC Program Manager (CG-9322).

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